Remarks

The Office Action indicates claims 5 – 7 and 15 – 20 are allowed.

The rejection of claims 1, 10, and 14, citing 35 U.S.C. §102(b) and FR 2785238 is traversed and should be withdrawn. First, claim 1 requires the approval criterion to be a function of engine torque. The FR reference teaches employing predetermined torque limits when the engine is starting (paragraph [0010]) and when the clutch is in a skating condition (paragraph [0013]). Therefore, the FR reference does not require approval criteria to be a function of engine torque. Second, claim 1 requires the default engine torque to be determined as a function of at least one current engine characteristic. The FR reference sets fixed limit values for torque based on a mode selection.

In response, the Office action asserts,

> the torques 4, 6, 7 is [*sic*] determined as a function of the predetermined torque 2a because these torques are limited under the torque 2a, so without knowing what the torque 2a is, the control unit wouldn't know the amount of reduction needed for the torques 4, 6, 7, also torque 2a is a current engine characteristic because this torque is considered to be the torque which is occurring when the torques 4, 6, 7 are not used. OA at pages 2 – 3.

This assertion demonstrates a misunderstanding of what it means for one variable to be a function of another variable. In mathematics a function is a variable so related to another that for each value assumed by one there is a value determined for the other. In order for torques 4, 6, and 7 to be a function of torque 2a, they would need to be determined by torque 2a. They are not. Torques 4, 6, and 7 are predefined and their values are not determined based on torque 2a. Therefore, the rejection is in error and should be withdrawn.

The rejection of claim 1, 8 – 10, and 14, citing 35 U.S.C. §103(a), US 6,258,008 to Tabata et al. (hereinafter, "Tabata") and US 6,000,376 to Hess et al. (hereinafter, "Hess") is traversed and should be. Tabata doesn't disclose the method for reducing the engine torque as claimed. Hess does not provide any approval criterion. According to Hess operating variables can include a desired torque value, a signal representing a degree of actuation ß, engine speed, engine load, and engine temperature (See column 2,

lines 36 – 55). These operating variables are not approval criterion, because Hess's method proceeds regardless of what the operating variables happen to be. According to Hess, the operating variables are merely separated into a desired torque value for the charge path and a desired value for influencing the metering of fuel and/or the ignition angle. Therefore, according to Hess, nothing is contingent upon satisfying an approval criterion for an engine torque. Tabata, Yoshida, and Mabuchi are not cited to compensate for the above-discussed shortcomings of Hess.

The rejection of claim 13, citing 35 U.S.C. §103(a), Tabata, Hess, and US 6,742,498 to Mabuchi et al. (hereinafter, "Mabuchi") is traversed and should be withdrawn. This rejection should be withdrawn because of the shortcomings of the combination of Tabata and Hess as already discussed.

The Director is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account 14-1437. Please credit any excess fees to such account.

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